

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HOWARD PRESCOD,	:	10 Civ. 2395 (SHS)
	:	
Petitioner,	:	
	:	
-against-	:	<u>ORDER</u>
	:	
D. BROWN,	:	
	:	
Respondent.	:	

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SIDNEY H. STEIN, U.S. District Judge.

In a Report and Recommendation dated January 20, 2011, Magistrate Judge Andrew J. Peck recommended that the petition for a writ of *habeas corpus* be denied as time barred by the AEDPA's one year limitations period. Objections to the Report and Recommendation were due by February 7, 2011. To date, the Court has received no objections from petitioner. After a *de novo* review of the January 20, 2011 Report and Recommendation,

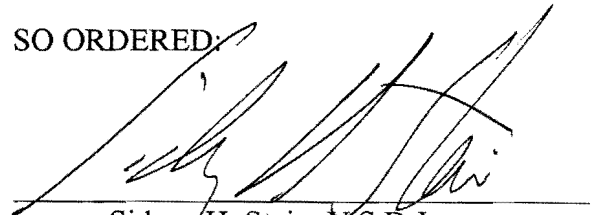
IT IS HEREBY ORDERED that:

1. Magistrate Judge Peck's "Report and Recommendation" is adopted;
2. The petition for a writ of *habeas corpus* is denied, and the petition is dismissed;
3. As petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. 28 U.S.C. § 2253; see also Richardson v. Greene, 497 F.3d 212, 217 (2d Cir. 2007); and

5. Pursuant to 28 U.S.C. § 1915(a) the Court certifies that any appeal from this Order would not be taken in good faith.

Dated: New York, New York
February 10, 2011

SO ORDERED:



Sidney H. Stein, U.S.D.J.